



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

December 15, 2023

By ECF

The Honorable Philip M. Halpern
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: *Students for Fair Admissions v. United States Military Academy at West Point, et al.*, No. 23 Civ. 8262 (PMH)

Dear Judge Halpern:

Defendants the United States Military Academy at West Point (“West Point”); the United States Department of Defense; Lloyd Austin, Secretary of Defense; Christine Wormuth, Secretary of the Army; Lieutenant General Steven Gilland, Superintendent of West Point; and Lieutenant Colonel Rance Lee, Director of Admissions for West Point (together, the “Government”), write respectfully in response to the Court’s order dated December 15, 2023, directing the parties “to file responses to Mr. Wooten’s motion (Doc. 63).” The Government also writes respectfully in advance of the oral argument scheduled for December 21, 2023, concerning two issues related to plaintiff’s motion for a preliminary injunction.

By request docketed on October 19, 2023, Robert Wooten, proceeding *pro se*, petitioned to file an amicus brief, *see* Dkt. No. 29; on October 31, 2023, the Government informed the Court that it “intend[s] to take a position of non-opposition to future requests to file amicus briefs in this matter,” Dkt. No. 36; and on November 11, 2023, the Court denied Mr. Wooten’s petition, Dkt. No. 41. By motion docketed on November 27, 2023, Mr. Wooten filed a “Rule 60: motion for relief from judgment or order,” seeking reconsideration of the Court’s denial of his petition. Dkt. No. 63. The Government’s position remains the same: the Government does not oppose requests to file amicus briefs and takes no position on any related motion practice.

Regarding the argument scheduled for December 21: first, we write to notify the Court of a decision issued on December 14, 2023, in *Students for Fair Admissions v. United States Naval Academy, et al.*, 23 Civ. 2699 (RDB) (D. Md.), a case filed by plaintiff against the United States Naval Academy, asserting identical claims as those it asserts against West Point in this matter. *See* 23 Civ. 2699 (D. Md.), Dkt. No. 1. Also like this matter, plaintiff in *Naval Academy* filed a motion for a preliminary injunction seeking to “enjoin the Academy from using race as a factor in admissions[.]” Dkt. No. 9-1. For substantially the same reasons as those articulated here, the military opposed. *Compare* 23 Civ. 2699 (D. Md.), Dkt. No. 46, *with* 23 Civ. 8262 (S.D.N.Y.), Dkt. No. 47. On December 14, 2023, the district court heard oral argument in *Naval Academy* and denied plaintiff’s motion for a preliminary injunction. *See* 23 Civ. 2699 (D. Md.), Dkt. No. 25 (also attached as Exhibit A). The district court noted that a Memorandum Opinion will be

forthcoming, *see id.*, directed the parties to confer regarding an expedited discovery schedule, and indicated that a trial would be scheduled in September 2024.

Second, consistent with this Court's Individual Rule 4.M, the Government anticipates two attorneys of record participating in the oral argument on December 21 on behalf of the Government: Assistant United States Attorneys Ellen Blain and Alyssa O'Gallagher.

We thank the Court for its consideration.

Respectfully,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

STUDENTS FOR FAIR ADMISSIONS, *

Plaintiff,

v.

THE UNITED STATES NAVAL
ACADEMY, *et al.*,

Defendants.

* * * * *

ORDER

For the reasons stated on the record at this Court's December 14, 2023 hearing, and as will further be explained in a forthcoming Memorandum Opinion, it is HEREBY ORDERED this 15th day of December, 2023 that:

1. Plaintiff Students for Fair Admissions' Motion for Preliminary Injunction (ECF No. 9) is DENIED; and
2. The Clerk of the Court shall transmit a copy of this Order and accompanying Memorandum Opinion to counsel of record.



Richard D. Bennett
United States Senior District Judge